

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

LORENZO E. CLEMENT AND
KEN MORTON,

Plaintiffs,

v.

CSC OF COBB COUNTY INC.
HOOD CLAYTON LOGISTICS
LLC
THE KROGER CO.

Defendants.

Civil Action File No.:

Removed from
Cobb County Superior Court

Civil Action No.: 18-A-1674

ANSWER AND AFFIRMATIVE DEFENSES
OF DEFENDANT THE KROGER CO. TO PLAINTIFFS' COMPLAINT

COMES NOW The Kroger Co., (hereinafter referred to as “Kroger” or “Defendant”), by and through its undersigned counsel, and respectfully submit its Answer and Affirmative Defenses to Plaintiffs’ Complaint (“Complaint”), showing this Court the following:

FIRST DEFENSE

Plaintiffs Lorenzo E. Clement and Ken Motton Complaint Fails to State a Claim against this Defendant upon which relief may be granted.

SECOND DEFENSE

Plaintiff's injuries and damages, if any, were not proximately caused by any act or omission by Kroger, with the result that the Plaintiffs are not entitled to recover against this Defendant in this case.

THIRD DEFENSE

Plaintiffs' alleged injuries are the sole result of the intervening or superseding causes and not the result of any negligence on the part of this Defendant.

FOURTH DEFENSE

To avoid waiving affirmative defenses, which may subsequently develop through discovery, and in further answer, this defendant states that plaintiff's complaint may be barred by the affirmative defenses as stated in O.C.G.A. § 9-11-8(c), or any one of them.

FIFTH DEFENSE

Without limiting or waiving any defense previously raised or herewith raised, Kroger responds to the enumerated paragraphs of Plaintiffs' *Complaint for Damages* (henceforth referred to as "Plaintiffs' *Complaint*") as follows:

PARTIES AND JURISDICTION

1.

This Defendant admits the Plaintiff named in this allegation are Lorenzo E. Clement and Ken Morton but is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 1 of Plaintiffs' *Complaint* and, therefore, the allegations can neither be admitted nor denied

2.

This Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 2 of Plaintiffs' *Complaint* and, therefore, the allegations can neither be admitted nor denied.

3.

This Defendant admits its registered agent is CSC Cobb County, Inc. located at 192 Anderson Street SE, Suite 125, Marietta, GA 30060, but is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 3 of Plaintiffs' Complaint and, therefore, the allegations can neither be admitted nor denied.

THE PLAINTIFFS' CLAIM AND RESOLUTION

4.

This Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 4 of Plaintiffs' Complaint and, therefore, the allegations can neither be admitted nor denied. Responding further, subparts A-D set forth are statements of general law not allegations and therefore no response is required. To the extent a response is required, Defendant denies liability to the Plaintiffs under any alleged theory.

5.

The Defendant denies that Plaintiffs are entitled to any of the relief requested in the unnumbered “Conclusion” Paragraph of the Complaint against The Defendants.

6.

Any allegation not specifically responded to is otherwise denied.

PRAYER FOR RELIEF

WHEREFORE, having fully answered the Complaint, this Defendant prays for relief in judgment against Plaintiffs as follows:

- a) That this Defendant has a trial of by a twelve-person jury on all issues so triable;
- b) That this Defendant recovers its fees, costs and attorneys’ fees incurred in the defense of this action; and
- c) That this action be dismissed with prejudice

Respectfully submitted, this 15th day of December 2023.

**GRAY, RUST, ST. AMAND, MOFFETT
& BRIESKE, L.L.P.**

950 East Paces Ferry Road, N.E.
Suite 1700 – Salesforce Tower Atlanta
Atlanta, Georgia 30326

Telephone: (404) 870-7390

Facsimile: (404) 870-1030

mmoffett@grsmb.com

nbedford@grsmb.com

/s/ Nicholas D. Bedford

Matthew G. Moffett

Georgia Bar No. 515323

Nicholas D. Bedford

Georgia Bar No. 940659

Counsel for Defendant Kroger

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

LORENZO E. CLEMENT AND
KEN MORTON,

Plaintiffs,

v.

CSC OF COBB COUNTY INC.
HOOD CLAYTON LOGISTICS
LLC
THE KROGER CO.

Defendants.

Civil Action File No.:

Removed from
Cobb County Superior Court

Civil Action No.: 18-A-1674

CERTIFICATE OF SERVICE AND COMPLIANCE WITH L.R. 5.1

This is to certify that I have this day served the *Petition For Removal by Defendant* upon all counsel of record by electronic mail and depositing same in the United States mail in a properly addressed envelope with adequate postage thereon to:

Lorenzo E. Clement
Ken Morton
660 Sable View Lane
Atlanta, GA 30349
Lorenzo.clement@yahoo.com
Planetics46@gmail.com
Plaintiffs, Pro Se

This is to further certify that the foregoing complies with the font and point selections approved by the Court in Local Rule 5.1. It is prepared in Times New Roman 14-point font.

Respectfully submitted, this the 15th day of December 2023.

**GRAY, RUST, ST. AMAND, MOFFETT
& BRIESKE, L.L.P.**

950 East Paces Ferry Road, N.E.
Suite 1700 – Salesforce Tower Atlanta
Atlanta, Georgia 30326
Telephone: (404) 870-7390
Facsimile: (404) 870-1030

mmoffett@grsmb.com
nbedford@grsmb.com
twilliams@grsmb.com
nrwalker@grsmb.com

/s/ Nicholas D. Bedford

Matthew G. Moffett
Georgia Bar No. 515323
Nicholas D. Bedford
Georgia Bar No. 940659
Counsel for Defendant Kroger